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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 Eye Street N.W.
Washington, D.C. 20536

[redacted]

FILE: [redacted] Office: BALTIMORE, MD Date: JAN 20 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director, Services, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Cameroon who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation in August 2000. The applicant married a legal permanent resident of the United States on December 24, 1998. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his now U.S. citizen spouse and children.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on the applicant's spouse and denied the application accordingly.

On appeal, counsel states that the applicant presents a compelling case of extreme hardship to his spouse and children if he is forced to return to Cameroon. Counsel submits a brief supporting these assertions.

The record also includes copies of university registration information for the applicant's spouse; a letter from the principal of the Montgomery Primary Achievement Center (MPAC), dated May 18, 2003; a copy of a Transition Assessment Report for the applicant's child, dated June 6, 2002; a copy of a Developmental Assessment for the applicant's child, dated July 17, 2002; a copy of the MPAC Identifying Information for the applicant's child, dated January 2003; copies of MPAC Individualized Education Program reports for the applicant's child; a letter verifying enrollment of the applicant's child in the Children's Center for Discovery; doctor's notes regarding the applicant's child; a speech and language evaluation for the applicant's child, dated October 14, 2002; a letter from the father of the applicant's two stepchildren; evidence of academic performance by the applicant's stepchildren; letters of support; an affidavit from the Chairman of the North American Federation of the Union of Cameroon Democratic Forces (UCDF), dated May 19, 2003; a translation of a notice of search issued in the Republic of Cameroon; a copy of the naturalization certificate for the applicant's spouse; a copy of the U.S. birth certificate for the applicant's child and copies of financial and income tax documents for the couple. The entire record was considered in rendering this decision.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

> (i) Any alien who, by fraud or willfully

misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

(1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship the alien himself experiences upon deportation is irrelevant to section 212(i) waiver proceedings. It is further noted that Congress specifically did not include hardship to an alien's children as a factor to be considered in assessing extreme hardship under section 212(i). Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996). The only relevant hardship in the present application is that suffered by the applicant's wife.

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560 (BIA 1999) provides a list of factors the Bureau of Immigration Appeals (BIA) deems relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

Counsel asserts that the applicant's wife, [redacted] and her children are unable to accompany him to Cameroon owing to the

applicant's questionable political status in his home country. *See Memorandum on Appeal at 4.* To support these assertions, counsel submits a statement from the applicant's mother maintaining that authorities in Cameroon seek to arrest him because he was romantically involved with the current girlfriend of the President. *See Letter from Ndedi Agnes, dated May 16, 2003.* Counsel also submits an affidavit from the Chairman of UCDF stating that as a member, the applicant, is at risk for arrest and detention in Cameroon. *See Affidavit of Jules Francois Ngadeu Kontchou, dated May 19, 2003.* Counsel further contends that the applicant's child will be unable to receive special education based on his diagnosed autism in Cameroon. *See Letter from MPAC President, dated May 18, 2003.* The AAO notes that the submitted affidavits and letters are not substantiated by further documentation.

While counsel asserts hardship to the applicant's wife if she relocates to Cameroon, the record does not establish extreme hardship to her if she remains in the United States. The AAO notes that as a naturalized citizen, the applicant's wife is not required to leave the United States as a result of the adjudication of the applicant's waiver. Counsel contends that the applicant's spouse, [redacted] will suffer financial hardship as a result of the applicant's inadmissibility as she is an unemployed student who relies on the applicant for support. *See Memorandum on Appeal at 4.* However, the record does not establish that Mrs. [redacted] is unable to work. Remaining in the United States will allow the applicant's son to continue receiving special education alleviating hardship to Mrs. [redacted] that would be caused by departure.

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS,* 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch,* 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS,* 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS, supra,* held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported. The AAO recognizes that the applicant's wife will endure hardship as a result of separation from her husband. However, her situation, if she remains in the United States, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse

caused by the applicant's inadmissibility to the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.